



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,266	08/31/2000	Moshe Bril	20770	4051

7590

04/07/2006

Martin D. Moynihan
PRTSI, Inc.
P.O. Box 16446
Arlington, VA 22215

EXAMINER

KARMIS, STEFANOS

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/653,266

Applicant(s)

BRIL, MOSHE

Examiner

Stefano Karmis

Art Unit

3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed 07 December 2005.

Status of Claims

2. Claims 1 and 14 are currently amended. Claims 2, 3, 5-7, 13, 15, 17 and 18 are previously presented. Claims 4, 8-12 and 16 are originally filed. Claims 19 and 20 are cancelled. Therefore claims 1-18 are currently pending.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the automated bidding utility is unclear and therefore renders the claim indefinite. First, it is unclear whether the "users" are participants selling an item or the bidders bidding on the item. Also, claim 1 states that the automated bidding utility is "configured to calculate..." but there is no actual calculation being performed in claim 1. An automated bidding utility configured to calculate does not necessarily perform any calculation.

Art Unit: 3624

Instead it is only configured to be capable to perform such calculations. Therefore it is unclear whether Applicant intends for there to be an actual calculation performed in claim 1 and thus the claim is indefinite.

Response to Arguments

5. Applicant's arguments filed 07 December 2005 have been fully considered but they are not persuasive as discussed below. Therefore claims 1-18 stand rejected and Applicant's request for allowance is respectfully declined.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

Art Unit: 3624

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-8, 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Godin et al. (hereinafter Godin) U.S. Patent 6,266,652 in view of Hogendoorn U.S. Publication 2002/0007339.

Claim 1 was rejected under 35 U.S.C. 103(a) as being unpatentable over Godin et al. (hereinafter Godin) U.S. Patent 6,266,652 in view of Hogendoorn U.S. Publication 2002/0007339 as stated in the previous office action, mailed 09 September 2005. Godin teaches that a seller enters a starting price, a closing price and an auction end time (column 3, lines 35-48). Further, Godin teaches that the price decreases as time remaining in the auction decreases and that the price decreases in a predetermined manner (column 6, lines 45-47). Therefore, knowing the start price, end price, the auction duration and the decreasing function would allow one to plot on a graph a function of the value versus time. Further Godin teaches providing such a demand curve (column 8, lines 5-9). Godin also teaches a web server that provides appropriate feedback to each user which includes such information as the number of units left, the current price and the time left (column 6, lines 45-49). Godin teaches that the system is configured to perform pertinent calculations regarding dynamic variables such as units remaining, current price and time remaining as well as update sales (column 8, lines 10-41). Therefore, Godin in view of Hogendoorn teach claim 1 as amended and Applicant's request for allowance is respectfully declined.

Art Unit: 3624

Regarding Claim 13, Applicant's arguments are not persuasive. Applicant states that Godin in view of Hogendoorn fail to teach "a cumulative quantity of items bid for." However, Godin does teach informing the customer of the cumulative quantity of items left available to bid and by purchasing an item the cumulative quantity is merely one. Further, Hogendoorn specifically teaches a quantity function that allows a purchaser to designate the amount of quantity for a particular product that the user wishes to obtain (page 2, paragraph 0030).

Any remaining claims remain rejected as stated in the previous office action mailed 09 September 2005. For these reasons, Claims 1-18 are rejected and Applicant's request for allowance is respectfully declined.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 3624

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted
Stefano Karmis
15 February 2006



VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

